

**NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE
RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.**

FILED BY CLERK

NOV 14 2008

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Respondent,)	2 CA-CR 2008-0095-PR
)	DEPARTMENT B
v.)	
)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
GEORGE DARRELL LEROY CROCKER,)	Rule 111, Rules of
)	the Supreme Court
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20041712

Honorable Christopher C. Browning, Judge

REVIEW GRANTED; RELIEF DENIED

Terry Goddard, Arizona Attorney General
By Paul E. Carter

Tucson
Attorneys for Respondent

George Darrell Leroy Crocker

Tucson
In Propria Persona

E C K E R S T R O M, Presiding Judge.

¶1 In this petition for review, petitioner George Crocker contends the trial court erred by denying his claim that the Arizona Department of Corrections (ADOC) has incorrectly calculated his sentence and, consequently, his release date and commencement of his term of community supervision. We deny relief for the reasons stated below.

¶2 Crocker filed a Motion to Correct Miscalculation of Term of Community Supervision in the underlying criminal proceeding, requesting that the trial court review ADOC's calculation of his prison terms, factoring in earned release credits. Crocker asserted the motion was being brought pursuant to Rule 32.1(c), Ariz. R. Crim. P., and that the trial court had jurisdiction based on that rule. But that subsection of the rule provides as a ground for relief that the defendant's "sentence . . . exceeded the maximum authorized by law, or is otherwise not in accordance with the sentence authorized by law." Ariz. R. Crim. P. 32.1(c). Crocker's complaint does not fall within this subsection of the rule. And, because Crocker is not asserting he should already have been released if his sentence were correctly calculated,¹ his claim does not even arguably fall within Rule 32.1(d), which provides a ground for relief if "[t]he person is being held in custody after the sentence imposed has expired." As the comment to Rule 32.1(d) explains, although the subsection is intended to include miscalculations of the sentence and of "good time," the rule only applies when the defendant is asserting his prison term has expired.

¹Crocker contends his earliest release date is November 27, 2009.

¶3 The trial court correctly ruled that Crocker had failed to present a claim cognizable under Rule 32, and Crocker has not persuaded us otherwise in his petition for review. Therefore, we grant the petition for review but deny relief.

PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

PHILIP G. ESPINOSA, Judge

GARYE L. VÁSQUEZ, Judge